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E.O. 12958: DECL: 06/19/2016
TAGS: [PHUM](#) [PGOV](#) [MASS](#) [NP](#)
SUBJECT: NEPAL ARMY SHARES ITS HUMAN RIGHTS COUNCIL REPORT
FOR GENEVA

REF: A. KATHMANDU 1376

[1](#)B. 05 KATHMANDU 1240

Classified By: CDA Larry Schwartz. Reasons 1.4 (b/d).

Summary

[1](#)1. (C) The Nepal Army (NA) will present its human rights report to the United Nations Human Rights Council in Geneva during the upcoming session. The Army is aware that it has problems with human rights abuse and alternates between trying to explain the reasons for violations and trying to address those violations so as to improve its record and image. According to the NA report, the NA is taking action to protect human rights and to punish human rights abusers. The Army claims to have tried many cases and convicted 156 NA personnel for human rights violations, although it does not list what those violations were. Five cases are currently under Court Martial. The NA regularly points out that Maoist atrocities continue despite the cease-fire and peace talks.
End Summary.

Nepal Army Shares Human Rights Report

[1](#)2. (C) Colonel Dharma Baniya, Chief of the Nepal Army Human Rights Cell, shared with Emboff the NA's human rights report, which will be presented to the Human Rights Council in Geneva during the upcoming session. The Army compiled information regarding alleged disappearances, detainees, internally displaced people, and human rights abuses attributed to its actions to respond, in part, to the United Nations Office of the High Commissioner for Human Rights (OHCHR) report on human rights abuses released in May (Ref A). The report said the NA had furnished 2,995 answers to 3,837 cases of alleged human rights violations presented to it.

Extrajudicial Killings and Disappearances

[1](#)3. (C) The NA report stated that it had provided clarification on 23 out of 24 alleged cases of extrajudicial killings and that seven NA personnel were punished in these

cases. The report also asserted that there was "no policy of enforced and involuntary disappearance in the Nepalese Army." It explained that the high number of disappearance cases arose from six factors: a lack of proper documentation by the NA, the number of aliases used by the Maoists, unrecorded migration to India and other countries, Maoists going to India for treatment and dying of injuries there without record, the use of civilians as human shields by the Maoists, and Maoist underreporting of deaths in combat operations. An appendix to the report lists the number of disappearance cases alleged by various governmental and non-governmental organizations and the number still under investigation. According to the report, there were no new cases of disappearances involving the NA since the last Human Rights Council Session in March-April 2005.

Nepal Army Reaction to OHCHR Report

¶4. (C) The report stated that the NA formed a high-level investigation team, headed by a Brigadier General, to investigate the allegations made in the OHCHR report released May 16 about the ill-treatment and disappearances of detainees from the Maharajung barracks from September-December 2003. The NA report noted that two high-level task forces already investigated the cases, and that the whereabouts of 5 of the 49 alleged disappeared in the OHCHR report were already released to the Nepal Police. The NA report appears to attempt to explain away the OHCHR report by stating, "the figure indicated in the press statement cannot be taken as accurate and clearly exhibits the inevitable confusion in cases of disappearance."

Detainees And Internally Displaced People

¶5. (C) The report stated that, at present, there were no detainees in any NA military barracks. According to the report, the NA arrested 4,648 people (during an unspecified time frame) at the request of the civilian authorities and held them in barracks. Of these people, 2,826 were released to their families and 1,822 were handed over to the Nepal Police. The NA claimed that the military was not involved in any violation of human rights outside of the armed conflict with the Maoists, including during the People's movement this Spring. The report touched on internally displaced people in Nepal due to the conflict, blaming most of these displacements on the Maoists. The report listed a figure of 15,406 internally displaced people in Nepal.

The Nepal Army is Making Progress

¶6. (C) The report detailed the progress made by the NA since the last session of the Human Rights Commission in March-April 2005. The report claimed that five Courts Martial were currently underway for NA personnel accused of human rights violations in the past year. The NA conducted trainings and seminars on human rights and the law of armed conflict. The NA stated that they had given "unfettered" access to human rights groups, such as OHCHR-Nepal. (Note: While OHCHR has been given access to barracks and places of detention, it has complained of not having access to Court Martials and investigations. End Note.) Also, the NA issued an "intra Army Human Rights Action Plan," which would bar personnel found guilty of human rights violations from taking part in UN Peace Keeping operations and foreign training courses. The NA has punished 156 NA personnel for human rights violations, with punishments ranging from providing compensation to families of victims to imprisonment of the perpetrator. The Army referred two rape cases to civilian courts for prosecution.

Nepal Army Claims Maoists Atrocities Continue

¶7. (C) Army officers often express their frustration that

Maoist atrocities seem to go unnoticed, while international attention focuses on army violations. The NA report contained a list of Maoist atrocities allegedly committed since the beginning of the conflict in 1996; a list of Maoist activities from the bombing of a bus in Chitwan District in June 2005 (Ref B) to continuing abductions and extortion in the countryside. An appendix to the report listed Maoist atrocities reported to the NA from April 28-June 10: eight killings, 23 abductions, eight explosions, 37 cases of looting, 20 threats, three beatings, and four cases of arson.

Nepal Army Committed to Human Rights

18. (C) The report stresses that the NA is dedicated to upholding human rights and international humanitarian law. It once again states its intent to upgrade the Human Rights Cell of the NA to a Human Rights Directorate, commanded by a Brigadier General and containing its own legal division. The NA also plans to establish human rights sub-cells at the battalion and company levels. The report admitted that the NA had made mistakes involving human rights in the past, but that these were not policy driven. The report claimed that human rights violators have always been held accountable for their misdeeds and that the NA continued to investigate outstanding cases.

Comment

19. (C) Although the progress on human rights issues cite in the NA report is encouraging, the NA has a long way to go. The Army recognizes the international community's concern, but it clearly chafes at the belief that the Army was held to account while it was ordered to fight an insurgency that is seemingly held to a much lesser standard. The international

community must shine the spotlight on continuing Maoist atrocities, even while holding the NA responsible for upholding international standards of human rights.
SCHWARTZ